

## 7 Am. Jur. 2d Automobile Insurance § 1

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### Automobile Insurance

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#### I. In General

##### A. Overview

### § 1. Governing law of automobile insurance policies; choice of law

[Topic Summary](#) | [Correlation Table](#) | [References](#)

#### West's Key Number Digest

West's Key Number Digest, Insurance 1015, 1020, 1091(10) to 1091(12)

#### A.L.R. Library

[Conflict of Laws in Determination of Coverage Under Automobile Liability Insurance Policy, 110 A.L.R.5th 465](#)

A standard state automobile insurance policy must conform to the applicable statutes in effect at the time of contracting.<sup>1</sup> However, within the limits set by statutes in some states, the State Commissioner of Insurance decides what the terms of a standard policy will be, and the Commissioner's interpretation of the relevant statute, although not controlling, is entitled to deference.<sup>2</sup>

In order for insurance coverage to attach under an automobile insurance policy, steps required after the issuance and termination of a binder must be followed.<sup>3</sup> Generally, parties to an insurance contract may, by the terms of their contract, make it effective as of the time of the issuance, as of an earlier time, or as of a later time.<sup>4</sup> Furthermore, the validating event from which coverage under an insurance policy is effective may be found to be the payment of the first premium.<sup>5</sup>

Generally, the nature, validity, and interpretation of automobile insurance policies, like other contracts, are governed by the law of the place where the contract was made,<sup>6</sup> unless those provisions are contrary to the state's public policy, or the facts demonstrate another jurisdiction has the most significant relationship with the subject matter and the parties.<sup>7</sup> The fact that a

motor vehicle accident occurs in another state does not convert the validity of an automobile insurance policy from one of lex loci contractus into one of lex loci delicti, and thus, the substantive law of the state where the contract was made governs the validity of the policy's terms.<sup>8</sup> A jurisdiction's law will not apply to an automobile insurance policy if the only connection to that jurisdiction is that the interests insured under the policy were in the state at the time of the accident.<sup>9</sup> However, in some states, in determining choice of law issues related to an insurance contract, the principal location of the insured risk is given greater weight than any other single contact provided that the risk can be located in a particular state.<sup>10</sup> Unless some other state has a more significant relationship to the transaction and the parties, the law of the state which the parties understood to be the principal location of the insured risk during the term of an automobile insurance policy controls.<sup>11</sup> Also, where the parties to the contract manifest an intent to apply the laws of another jurisdiction by executing a choice of law provision, then that intent will be honored provided certain requirements are met.<sup>12</sup>

Although some states have enacted statutes requiring motor vehicle carriers of passengers for hire to furnish security in the form of a bond or policy of insurance for the benefit of persons injured by the carrier's operations,<sup>13</sup> there is authority for the view that bonds of this type are not insurance policies, so as to fall within the scope of automobile insurance.<sup>14</sup> However, statutes in some states have been enacted to the effect that a cash deposit, certificate of insurance, or surety bond filed with the State Department of Motor Vehicles to meet financial responsibility requirements are considered a policy of automobile insurance for the purposes of determining primary or excess coverage in the event of an automobile collision.<sup>15</sup> In such a jurisdiction, a car rental agreement which contains a provision indemnifying the renter from liability to third persons, up to a specified limit, resulting from an accident which occurs while the rented vehicle is in use constitutes insurance.<sup>16</sup> However, not all rental agreements will be considered automobile insurance policies.<sup>17</sup>

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#### Footnotes

- 1      *Citizens Property Ins. Corp. v. Trapeo*, 136 So. 3d 670 (Fla. 2d DCA 2014); *Ross v. Farmers Ins. Group of Companies*, 82 Ohio St. 3d 281, 1998-Ohio-381, 695 N.E.2d 732 (1998).
- 2      *Colby v. Metropolitan Property and Cas. Ins. Co.*, 420 Mass. 799, 652 N.E.2d 128 (1995).  
As to the interpretation of compulsory insurance laws, generally, see § 23.  
As to the construction of financial responsibility and no-fault laws, see §§ 27 to 31.  
As to the construction of statutes pertaining to uninsured and underinsured motorist coverage, see §§ 34, 37.
- 3      *Liberty Mut. Ins. Co. v. Maleski*, 658 A.2d 463 (Pa. Commw. Ct. 1995).  
As to automobile insurance binders, generally, see §§ 10 to 16.
- 4      As to date as affected by express agreement between parties, see *Am. Jur. 2d, Insurance* § 254.
- 5      As to date as affected by payment of first premium, see *Am. Jur. 2d, Insurance* § 258.
- 6      *American Fire and Casualty Company v. Hegel*, 847 F.3d 956 (8th Cir. 2017); *McGill v. American Trucking and Transportation, Ins. Co.*, 77 F. Supp. 3d 1261 (N.D. Ga. 2015); *Contreras v. American Family Mutual Insurance Company*, 135 F. Supp. 3d 1208 (D. Nev. 2015).  
With insurance contracts the principle of lex loci contractus mandates that the substantive law of the state where the last act to make a binding contract occurred, usually delivery of the policy, controls the interpretation of the contract. *National Union Fire Ins. Co. of Pittsburgh, Pa. v. Njuguna*, 15 F. Supp. 3d 637 (E.D. N.C. 2014).  
As to the law of the place of the contract as governing contracts, generally, see *Am. Jur. 2d, Conflict of Laws* §§ 83 to 88.
- 7      *Bernal v. Charter County Mut. Ins. Co.*, 2009 OK 28, 209 P.3d 309 (Okla. 2009).
- 8      *Green v. United States Auto. Ass'n Auto and Property Ins. Co.*, 407 S.C. 520, 756 S.E.2d 897 (2014).
- 9      *Fortune Ins. Co. v. Owens*, 132 N.C. App. 489, 512 S.E.2d 487 (1999), aff'd, 351 N.C. 424, 526 S.E.2d 463 (2000).
- 10     *Accurso v. Amco Ins. Co.*, 295 S.W.3d 548 (Mo. Ct. App. W.D. 2009).

As to conflict of laws regarding the right of an injured person to sue an automobile insurer directly, see § 559.  
As to the law governing insurance contracts, generally, see [Am. Jur. 2d, Insurance §§ 326 to 333](#).  
11            [Hoosier v. Interinsurance Exchange of the Automobile Club](#), 2014 Ark. 524, 451 S.W.3d 206 (2014).  
12            [Williams v. Smith](#), 465 S.W.3d 150 (Tenn. Ct. App. 2014), appeal denied, (Mar. 12, 2015).  
13            As to financial responsibility or security requirements for motor carriers, see [Am. Jur. 2d, Automobiles and Highway Traffic §§ 175 to 183](#).  
14            [Levitt v. Fireman's Fund Ins. Companies](#), 54 A.D.2d 923, 388 N.Y.S.2d 124 (2d Dep't 1976).  
15            [Grand Rent A Car Corp. v. 20th Century Ins. Co.](#), 25 Cal. App. 4th 1242, 31 Cal. Rptr. 2d 88 (2d Dist. 1994).  
As to financial responsibility laws with regard to insurance, generally, see §§ 21 to 44.  
As to financial responsibility laws as a condition of granting drivers' licenses or registrations, see [Am. Jur. 2d, Automobiles and Highway Traffic § 171](#).  
16            [Grand Rent A Car Corp. v. 20th Century Ins. Co.](#), 25 Cal. App. 4th 1242, 31 Cal. Rptr. 2d 88 (2d Dist. 1994).  
17            [Ponds ex rel. Poole v. Hertz Corp.](#), 37 Kan. App. 2d 882, 158 P.3d 369 (2007).